

FISCAL YEAR 2007 ANNUAL PROGRAM PERFORMANCE MEASURES

Department:

Michigan Department of Labor & Economic Growth

Appropriation Unit:

Executive Direction

Program:

MES Board of Review

TIMELINE: October 1, 2006 through September 30, 2007

PROGRAM MISSION STATEMENT

The mission of the MES Board of Review is to provide a fair and expert mechanism to decide appeals of disputed unemployment compensation claims and tax questions; to protect Michigan workers and the Michigan economy from the hazards of unemployment; and to protect Michigan employers against unjustified unemployment claims.

PROGRAM STATEMENT

The Michigan Employment Security Board of Review is the final administrative appellate step within the unemployment compensation system, and its primary mission is to process and decide appeals from decisions and orders issued by SOAHR referees in contested unemployment benefits cases. The Board also reviews referee decisions concerning unemployment tax liability issues. Since 1936, a coordinated state-federal unemployment compensation system has existed to protect the people of Michigan from the hazards of unemployment. The Social Security Act requires, as an integral part of each state's unemployment compensation system, that there be a fair and impartial mechanism for appealing denials of unemployment benefits. The Michigan Employment Security Act provides a two-tiered administrative appellate system. Contested matters are first considered by SOAHR referees. Their decisions and orders may then be appealed to the Board of Review. This system affords claimants, employers and the Agency an opportunity to have disputed issues resolved by persons who are expert in unemployment compensation matters without encountering the delay, expense and formality associated with the civil judicial system.

PROGRAM GOALS/MAJOR OBJECTIVES

Bureau Goal - To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Bureau Objectives

- a. To maintain a pending caseload level (600-1,000) which represents normal work in progress.
- b. To continue to improve the Board of Review's time-lapse performance and maintain compliance with the federal desired levels of achievement.
- c. For many years, the standards were 50% of appeals decided within 45 days, 80% of appeals decided within 75 days and 95% of appeals decided within 150 days.
- d. Effective April 1, 2007, the above timeliness standard was changed by the U.S. Department of Labor and our new goal is to maintain an average age of pending appeals of 40 days.

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CUSTOMER IDENTIFICATION

Unemployed workers, employers, attorneys and other representatives, Unemployment Insurance Agency, SOAHR referees.

FUND SOURCE

100% Federal Funding - USDOL - ETA UI

LEGAL BASIS

Statute:

PA 1 of 1936 (Michigan Employment Security Act)

MCL 421.33-36

LINE ITEM PROGRAM: MES Board of Review

PROGRAM EFFECTIVENESS (FY07)

Outputs/Outcomes - See attached table and charts.

Performance Measures

The primary quantifiable measures of the Board of Review's performance are the number of appeals decided and the length of time it takes to decide each appeal. That time is directly related to the size of the inventory of pending appeals. Inventory is in turn related to the interaction between the number of new appeals, over which the Board has no control, and monthly dispositions. Timeliness of dispositions may be measured by average number of days from appeal to disposition, as well as by the percentage of cases decided within certain increments. As noted, the former federal "desired levels of achievement" for "higher authority" appellate bodies such as the Board of Review were 50% of appeals decided within 45 days, 80% decided within 75 days and 95% decided within 150 days.

Effective April 1, 2007 the federal "desired levels of achievement" were replaced by new federal performance measures: "Acceptable Levels of Performance" (ALP). Under the proposed ALP applicable to the Board, the Board will be expected to maintain a 40-day "average pending case age," measured at the end of each month. Much of the Board's efforts during FY07 was directed toward making the necessary adjustments to satisfy that standard.

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For the first time, the Board has compiled historical data regarding the upstream effects of its decision. Specifically, data has been compiled for calendar years 2000-2006 on: (1) The percentage of Board decisions appealed to Circuit Court; and (2) the percentage of those cases appealed that are reversed and/or remanded. This new data and commentary is on the final page of this report.

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**Employment Security Board of Review
Performance Measure Report FY 2006-2007
Annual Report: 10-1-2006 – 9-30-2007**

Criteria	Prior Year Performance	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr	YTD	Outcomes
New Appeals Received	6350	1535	1975	2038	1978	7526	*
Dispositions	6272	1441	1734	1599	1867	6641	
Pending Appeals	651	745	986	1425	1536	1536	
% Dispositions (45 days)	64%	63%	56%	38%	49%	52%	
% Dispositions (75 days)	91%	87%	79%	64%	71%	75%	
% Dispositions (150 days)	97%	94%	89%	82%	94%	90%	
Avg. days to Disposition	48	72	82	99	66	80	

* Notes regarding these performance criteria are found on the following pages.

Goal: To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Objective: Decrease the average number of days between receipt of an appeal and its disposition.

Output: Average Days to Disposition.

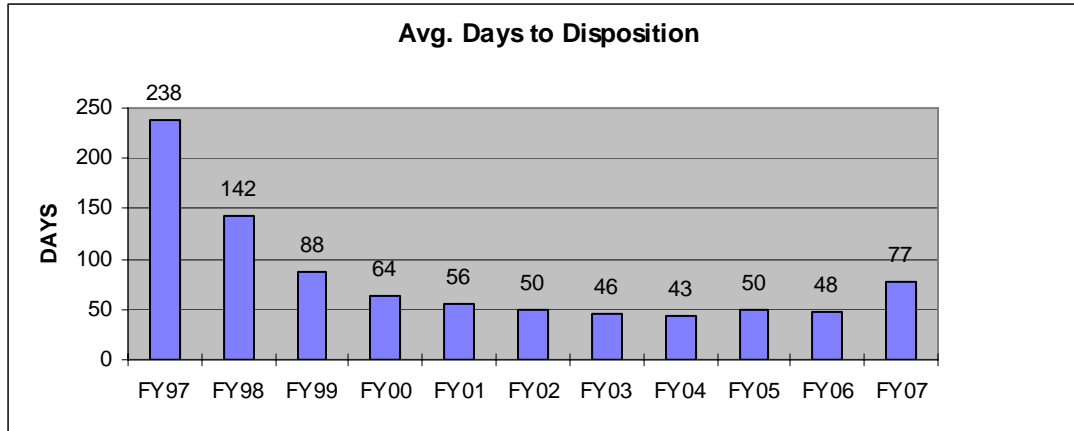
Outcome: Although this criterion is not formally monitored, we continually strive to reduce the average days to disposition. The increase in FY07 is a result of three factors: (1) The new ALP which requires emphasis to be placed on the oldest cases; (2) retirements of experienced staff attorneys and delays associated with filling the vacancies; and (3) at least a 10-year high of appeals to the Board.

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Goal: To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Objective: Decide 50% of appeals within 45 days of receipt of appeal. (Applicable Federal desired level from October 1, 2006-March 31, 2007)

Output: Percentage of decisions issued within 45 days.

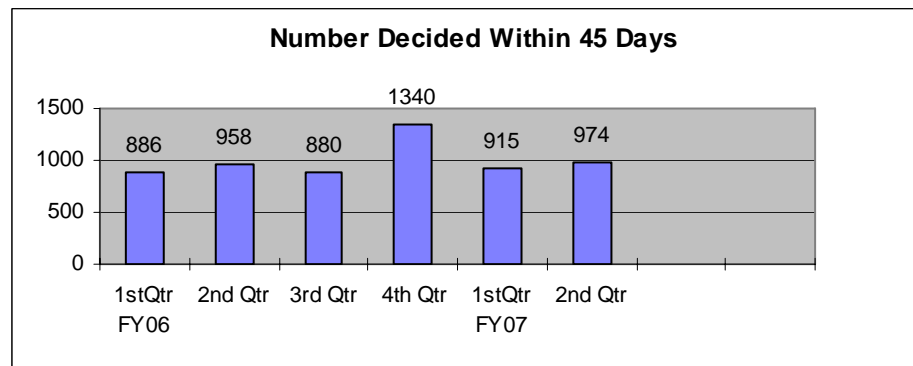
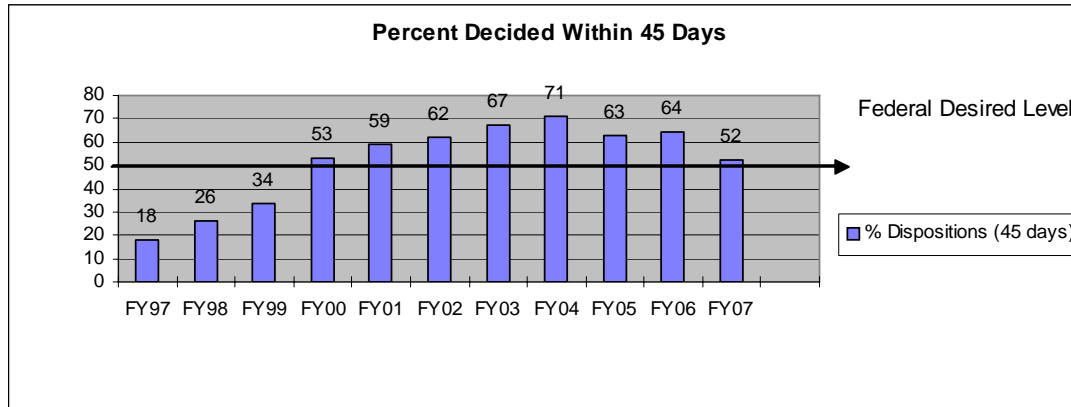
Outcome: While the Board has consistently exceeded the federal desired level on this criterion since 2000, the new ALP requires the Board to focus its efforts on reducing the average pending case age.

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Goal: To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Objective: Decide 80% of appeals within 75 days of receipt of appeal. (Applicable Federal desired level from October 1, 2006 – March 31, 2007)

Output: Percentage of decisions issued within 75 days.

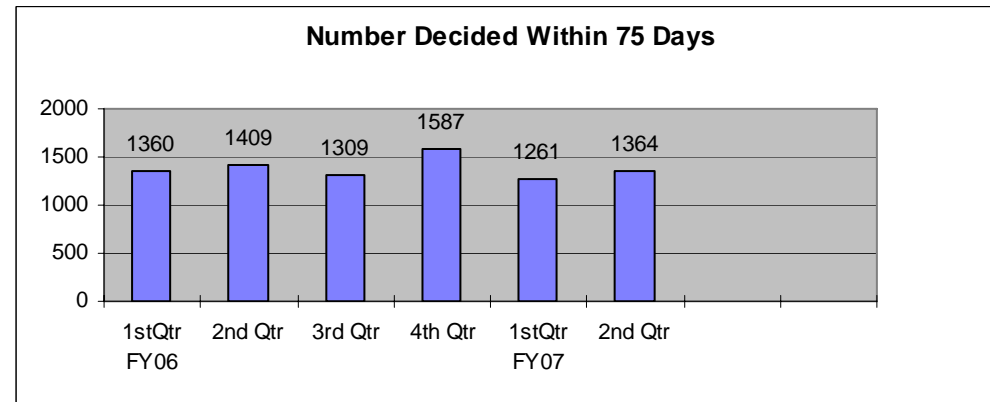
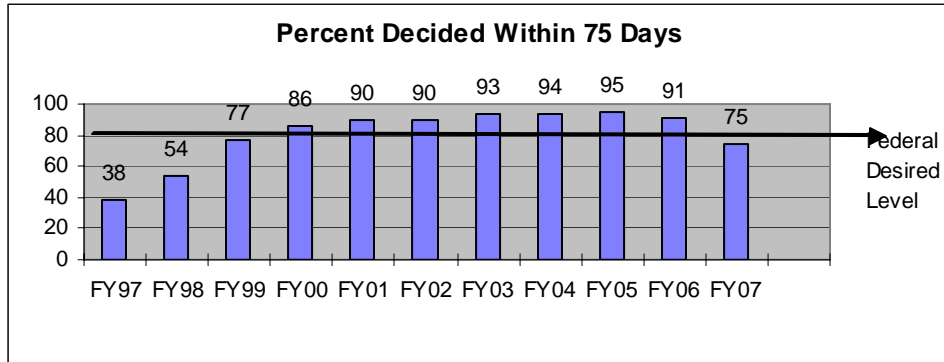
Outcome: While Board has consistently exceeded the federal desired level on this criterion since 2000, the new ALP requires the Board to focus its efforts on reducing the average pending case age.

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Goal: To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Objective: Decide 95% of appeals within 150 days of receipt of appeal. (Applicable Federal desired level, October 1, 2006-March 31, 2007.)

Output: Percentage of decisions issued within 150 days.

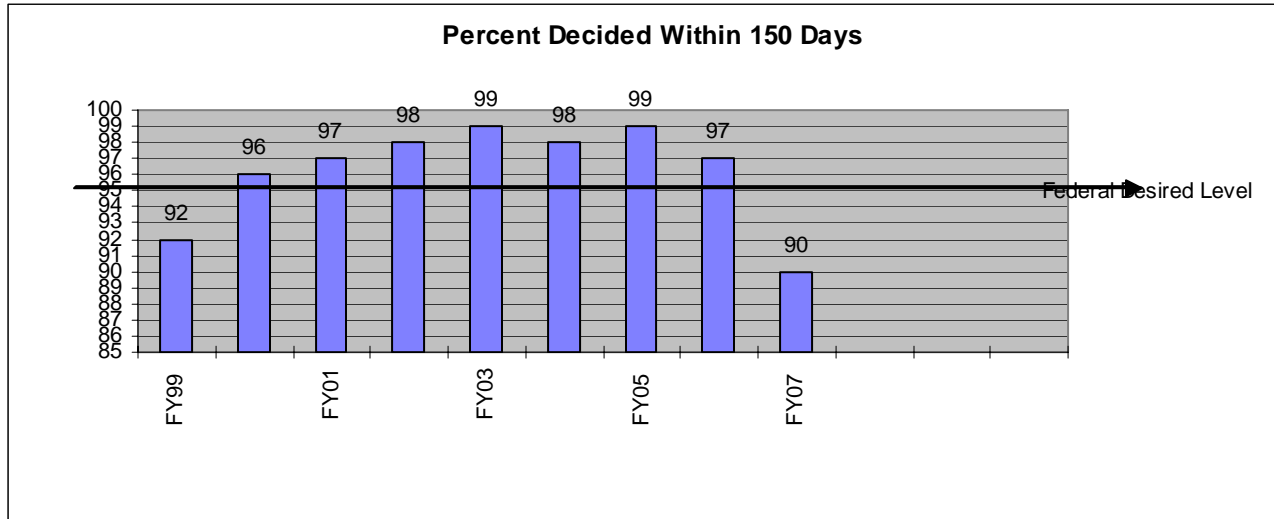
Outcome: While the Board has consistently exceeded the federal desired level on this criterion since 2000, the new ALP requires the Board to focus its efforts on reducing the average pending case age.

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Goal: To correctly decide appeals in an expeditious manner consistent with the MES Act, established precedent and the requirements of due process.

Objective: Reduce Board of Review backlog/inventory of pending appeals.

Output: Number of pending appeals.

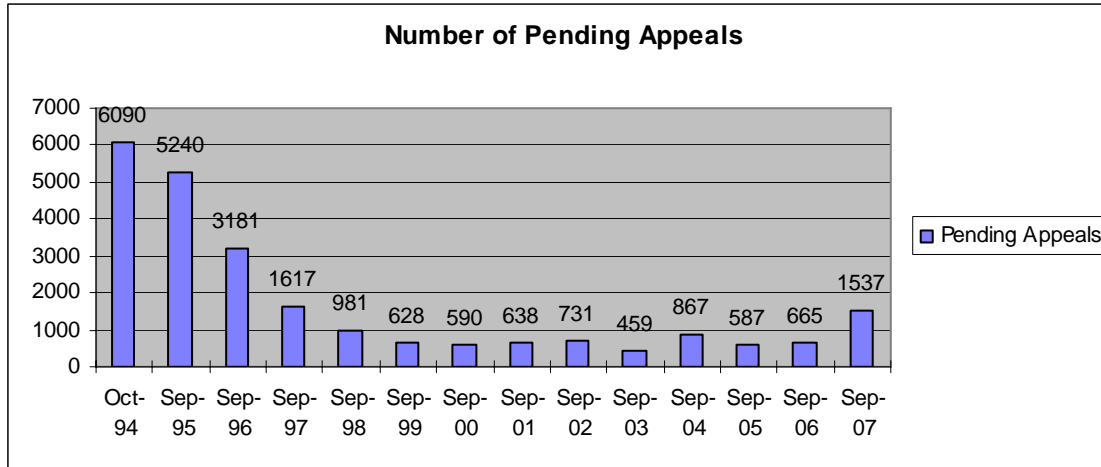
Outcome: The Board of Review's backlog has declined steadily for most of the period since October 1994. In 2007, however, note a substantial increase in pending appeals. This is due to several factors: (1) two staff attorney retirements; (2) delay in hiring during the budget crisis; and (3) the highest incoming case load in at least 10 years (based on calendar year, not fiscal year data). To address this situation, the Board has (1) hired one new staff attorney (replacing one who retired) (2) initiated a hiring process for a 2-year limited term staff attorney (replacing another who retired); and (3) modified internal policies and procedures to enhance and stimulate output.

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Goal: To achieve the Federal “Acceptable Levels of Performance” of a 40-day average pending case age at the end of each month.

Objective: Work on a FIFO System to dispose of the oldest pending cases to reduce our average pending case age.

Output: Average Pending case age calculated on the last day of the month.

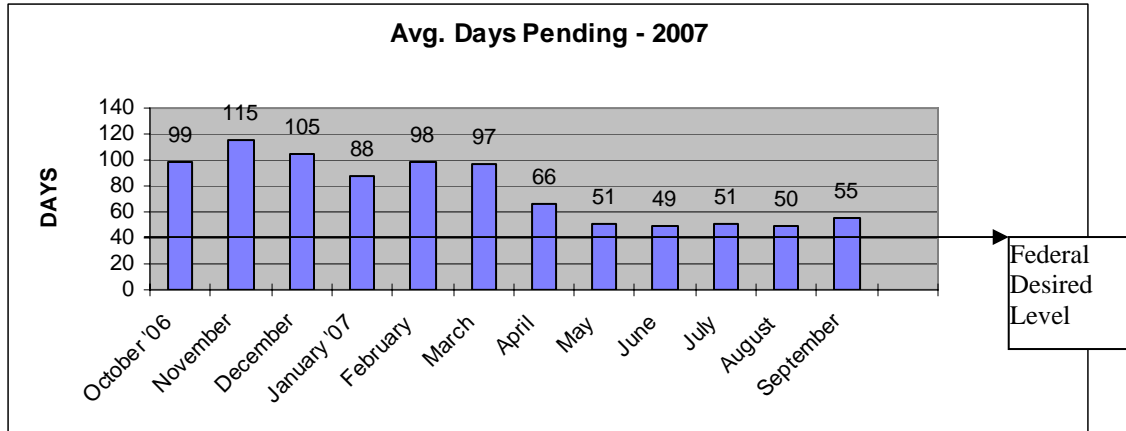
Outcome: The Board has made substantial progress in meeting the new Acceptable Levels of Performance shown below. From about one year ago, the Board has cut off 50 days from its average pending case age. With one new staff attorney, another on the way and revised policies and procedures, it is anticipated that the Board will meet the ALP during FY2008, despite high unemployment levels and associated appeals.

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Goal: Evaluate the quality of Board decisions by reviewing the upstream effects on challenged Board decisions.

Output: Evaluate the percentage of Board decisions that are (1) appealed to Circuit Court; and (2) reversed and/or remanded by the Circuit Court.

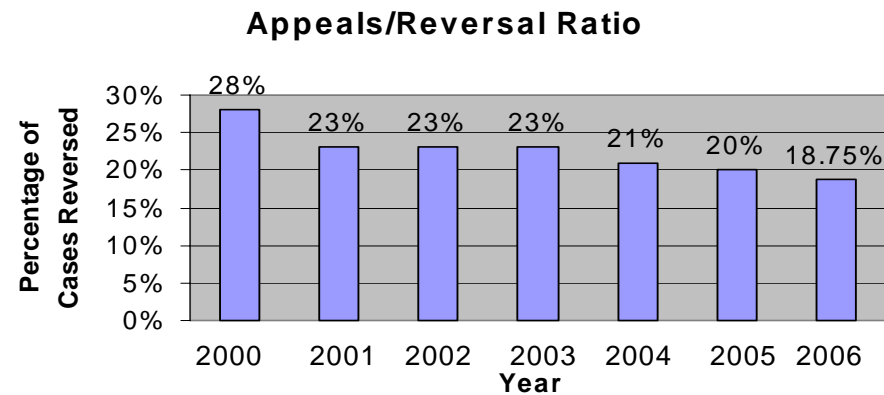
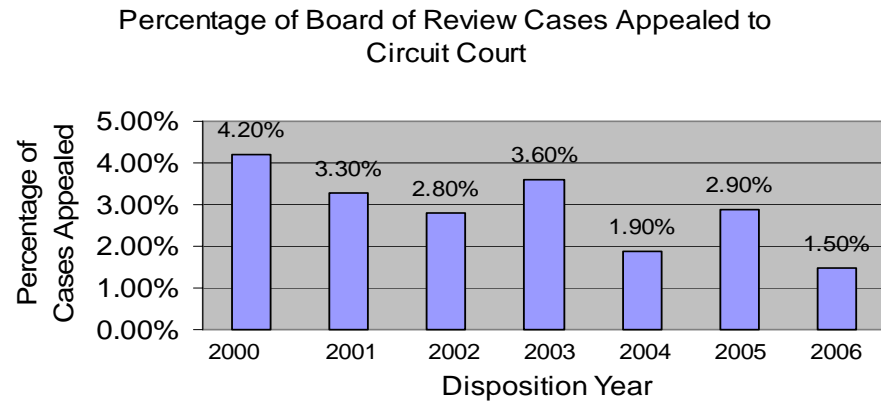
Outcome: During calendar year 2006, the Board enjoyed a 50% reduction in the number of its decisions being appealed to Court (as compared with calendar year 2005 and cumulative calendar years 2000-2005). Similarly, calendar year 2006 experienced the lowest reversal/remand rate since 2000, representing an 18.5% reduction in the reversal/remand rate over cumulative calendar years 2000-2005.

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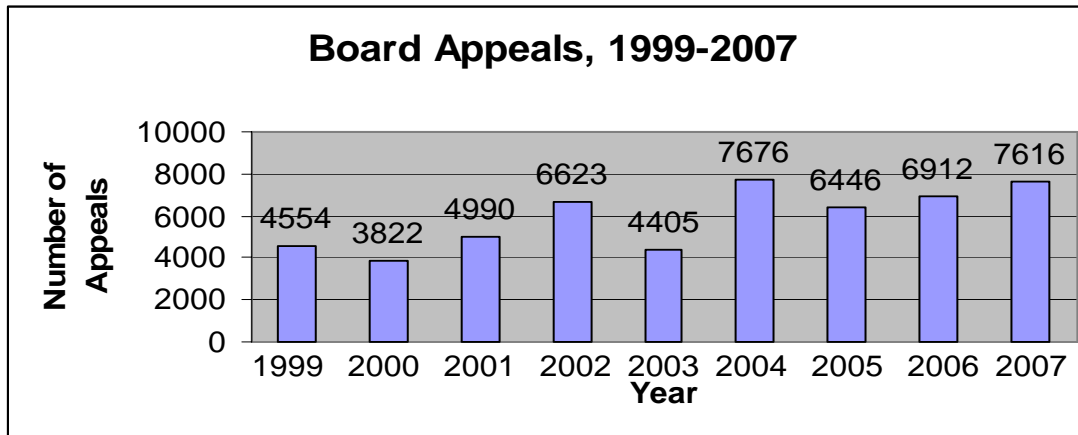
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New Challenges

As noted in the preceding pages, the Board is facing some critical challenges. First, the new federal standard has forced the Board to rethink the way it processes cases. Second, unemployment appeals are the highest they have been in about 10 years. Third, the retirements of two staff attorneys, and the delays in replacing them, has affected Board efficiency and productivity. The combined effect of these circumstances is that the Board is faced with the daunting challenge of doing more, with less but faster. Although it will take a bit of time, we are confident that we will attain compliance with the new federal standard during FY 2008. **On top of all this, USDOL for the past several years has reduced funding to the State of Michigan.**



Note that the appeal data is based on calendar, not fiscal year. The data for 2007 will increase during the last few weeks of the month and will, therefore, surpass 2004.

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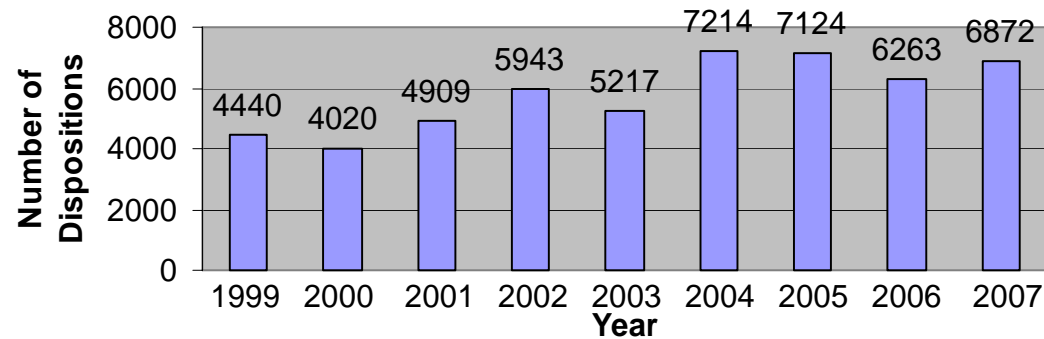
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Board Dispositions, 1999-2007



Remarkably, the Board is on course to meet or exceed its high disposition levels from 2004 and 2005. What makes this notable, and remarkable, is that for about eight months of the 2007 calendar year (March through October), the Board had only three staff attorneys. In contrast, during the peak levels of 2004 and 2005 the Board had five experienced staff attorneys. While the Board faces challenges in the factors identified above, the recent staff attorney hiring (and another on the way) will position the Board well to accept these challenges.

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